

ES

## Part 3

eral government, and who, as a member of Democratic Party, sought to actively support Democratic candidates in the District of Columbia elections, did establish real and immediate threat of injury sufficient to confer standing in action challenging validity of Civil Service Commission's [now Office of Personnel Management's] regulation exempting participation in political campaigns as or on behalf of independent candidate in partisan election for local office in District from otherwise applicable prohibitions of section 7324 of this title. Joseph v. U. S. Civil Service Commission, 7, 554 F.2d 1140, 180 U.S.App.D.C. 281.

District of Columbia residents who were employed by federal government and who sought to participate in campaigns of Democratic candidates for District of Columbia city council had standing to bring action challenging validity of Civil Service Commission's [Office of Personnel Management's] regulation exempting participation in political campaigns as or on behalf of independent candidate in partisan election for local office in District from otherwise applicable prohibitions of section 7324 of this title. In view of fact that such regulation embodied both a decision to exempt participation in campaigns of independent candidates and a decision not to exempt participation in partisan campaigns. *Id.*

**Weight and sufficiency of evidence**  
Evidence in action challenging validity of Civil Service Commission [now Office of Personnel Management] regulation exempting participation in political campaigns as or on behalf of independent candidates in partisan election for local office in District of Columbia from otherwise applicable prohibitions of section 7324 of this title was insufficient to sustain finding that majority of voters in District of Columbia were United States government employees so as to authorize Commission to exempt District of Columbia elections from prohibitions of section 7324 of this title. Joseph v. U. S. Civil Service Commission, 1977, 554 F.2d 1140, 180 U.S.App.D.C. 281.

**Declaratory judgment**  
Central committee of political party for county and for federal employees residing in county could maintain action for declaratory judgment that Civil Service Commission [now Office of Personnel Management] regulation granting to federal employees residing in county only limited exemption from prohibitions against political activities by federal employees contained in former section 1181 of this title [now section 7324 of this title].

## Ch. 73 FOREIGN GIFTS AND DECORATIONS 5 § 7342

tel. if, but only if, regulation contained and imposed on federal employees arbitrary or capricious discrimination not justified by purposes of the Hatch Act. Democratic State Central Committee for Montgomery County, Md. v. Andolsek, D. C.Md.1966, 249 F.Supp. 1009.

## SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

## Historical Note

1967 Amendment. Pub.L. 90-83, § 1(45)(A), Sept. 11, 1967, 81 Stat. 208, substituted "Foreign Gifts and Decorations" for "Foreign Decorations" in the subchapter heading.

## § 7341. Repealed. Pub.L. 90-83, § 1(45)(B), Sept. 11, 1967, 81 Stat. 208

## Historical Note

Section, Pub.L. 89-554, Sept. 8, 1966, 80 Stat. 528, related to receipt and display of foreign decorations, and is now covered by section 7342 of this title.

## § 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

(D) a member of a uniformed service;

(E) the President and the Vice President;

(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the

**5 § 7342****EMPLOYEES****Part 3**

meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

(2) "foreign government" means—

(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

(C) any agent or representative of any such unit or such organization, while acting as such;

(3) "gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(4) "decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

(5) "minimal value" means a retail value in the United States at the time of acceptance of \$100 or less, except that—

(A) on January 1, 1981, and at 3 year intervals thereafter, "minimal value" shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(B) regulations of an employing agency may define "minimal value" for its employees to be less than the value established under this paragraph; and

(6) "employing agency" means—

(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

BYEES

### Part 3

of the Internal Revenue Code of  
al, other than a spouse or depend-  
under subparagraphs (A) through

means—

n governmental authority, includ-  
State, local, and municipal gov-

or multinational organization  
posed of any unit of foreign gov-  
aragraph (A); and  
sentative of any such unit or such  
as such;

or intangible present (other than a  
received from, a foreign government;  
rder, device, medal, badge, insignia,  
or received from, a foreign govern-

a retail value in the United States  
0 or less, except that—

1, and at 3 year intervals thereaf-  
l be redefined in regulations pre-  
rator of General Services, in con-  
ary of State, to reflect changes in  
for the immediately preceding 3-

employing agency may define  
employees to be less than the value  
agraph; and

ns—

Standards of Official Conduct of  
ives, for Members and employees  
atives, except that those responsi-  
sections\* (c)(2)(A), (e)(1), and  
d out by the Clerk of the House;  
tee on Ethics of the Senate, for  
f the Senate, except that those re-  
responsibilities involving approv-  
gency) specified in subsections  
) shall be carried out by the Sec-

e Office of the United States  
icial branch employees; and

6

## Ch. 73 FOREIGN GIFTS AND DECORATIONS 5 § 7342

(D) the department, agency, office, or other entity in  
which an employee is employed, for other legislative branch  
employees and for all executive branch employees.

(b) An employee may not—

(1) request or otherwise encourage the tender of a gift or  
decoration; or

(2) accept a gift or decoration, other than in accordance with  
the provisions of subsections (c) and (d).

(c)(1) The Congress consents to—

(A) the accepting and retaining by an employee of a gift of  
minimal value tendered and received as a souvenir or mark of  
courtesy; and

(B) the accepting by an employee of a gift of more than min-  
imal value when such gift is in the nature of an educational  
scholarship or medical treatment or when it appears that to  
refuse the gift would likely cause offense or embarrassment or  
otherwise adversely affect the foreign relations of the United  
States, except that—

(i) a tangible gift of more than minimal value is deemed  
to have been accepted on behalf of the United States and,  
upon acceptance, shall become the property of the United  
States; and

(ii) an employee may accept gifts of travel or expenses  
for travel taking place entirely outside the United States  
(such as transportation, food, and lodging) of more than  
minimal value if such acceptance is appropriate, consistent  
with the interests of the United States, and permitted by  
the employing agency and any regulations which may be  
prescribed by the employing agency.

(2) Within 60 days after accepting a tangible gift of more than  
minimal value (other than a gift described in paragraph  
(1)(B)(ii)), an employee shall—

(A) deposit the gift for disposal with his or her employing  
agency; or

(B) subject to the approval of the employing agency, deposit  
the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under  
subparagraph (B), the employing agency shall forward the gift to  
the Administrator of General Services in accordance with subsec-  
tion (e)(1) or provide for its disposal in accordance with subsection  
(e)(2).

(3) When an employee deposits a gift of more than minimal value  
for disposal or for official use pursuant to paragraph (2), or within  
30 days after accepting travel or travel expenses as provided in

**5 § 7342****EMPLOYEES****Part 3**

paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

(e)(1) Except as provided in paragraph (2) gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be

## Part 3

## Ch. 73 FOREIGN GIFTS AND DECORATIONS 5 § 7342

el or travel expenses are ac-  
 ceptions of his or her employ-  
 tatement with his or her em-  
 ing the information prescribed

cepting, retaining, and wear-  
 ered in recognition of active  
 ns or awarded for other out-  
 formance, subject to the ap-  
 employee. Without this ap-  
 e been accepted on behalf of  
 operty of the United States,  
 within sixty days of accept-  
 ficial use, for forwarding to  
 for disposal in accordance  
 in accordance with subsec-

ph (2) gifts and decorations  
 oloying agency for disposal  
 B) forwarded to the Admin-  
 , donation, or other disposal  
 e Federal Property and Ad-  
 vever, no gift or decoration  
 ay be sold without the ap-  
 determination that the sale  
 ations of the United States.  
 tiated sale.

a Senator or an employee  
 he Secretary of the Senate  
 ial use which has terminat-  
 on on Arts and Antiquities  
 gift or decoration may be  
 r or may be transferred or  
 ch terms and conditions as  
 instrumentality of (i) the  
 r possession of the United  
 foregoing, or (iii) the Dis-  
 ation described in section  
 e of 1954 which is exempt  
 ch Code. Any such gift or  
 in the preceding sentence  
 of General Services for dis-  
 If the Administrator does  
 thin one year, he shall, at  
 to the Commission and the  
 decoration in such manner  
 gift or decoration may be

sold only with the approval of the Secretary of State upon a deter-  
 mination that the sale will not adversely affect the foreign relations  
 of the United States.

(f)(1) Not later than January 31 of each year, each employing  
 agency or its delegate shall compile a listing of all statements filed  
 during the preceding year by the employees of that agency pursuant  
 to subsection (c)(3) and shall transmit such listing to the Secretary  
 of State who shall publish a comprehensive listing of all such state-  
 ments in the Federal Register.

(2) Such listings shall include for each tangible gift reported—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances jus-  
 tifying acceptance;

(C) the identity, if known, of the foreign government and the  
 name and position of the individual who presented the gift;

(D) the date of acceptance of the gift;

(E) the estimated value in the United States of the gift at  
 the time of acceptance; and

(F) disposition or current location of the gift.

(3) Such listings shall include for each gift of travel or travel  
 expenses—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances jus-  
 tifying acceptance; and

(C) the identity, if known, of the foreign government and the  
 name and position of the individual who presented the gift.

(4) In transmitting such listings for the Central Intelligence  
 Agency, the Director of Central Intelligence may delete the informa-  
 tion described in subparagraphs (A) and (C) of paragraphs (2) and  
 (3) if the Director certifies in writing to the Secretary of State  
 that the publication of such information could adversely affect Unit-  
 ed States intelligence sources.

(g)(1) Each employing agency shall prescribe such regulations as  
 may be necessary to carry out the purpose of this section. For all  
 employing agencies in the executive branch, such regulations shall  
 be prescribed pursuant to guidance provided by the Secretary of  
 State. These regulations shall be implemented by each employing  
 agency for its employees.

(2) Each employing agency shall—

(A) report to the Attorney General cases in which there is  
 reason to believe that an employee has violated this section;

(B) establish a procedure for obtaining an appraisal, when  
 necessary, of the value of gifts; and

**5 § 7342****EMPLOYEES****Part 3**

(C) take any other actions necessary to carry out the purpose of this section.

(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$5,000.

(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

Added Pub.L. 90-83, § 1(45)(C), Sept. 11, 1967, 81 Stat. 208, and amended Pub.L. 95-105, Title V, § 515(a)(1), Aug. 17, 1977, 91 Stat. 862; Pub.L. 95-426, Title VII, § 712(a)-(c), Oct. 7, 1978, 92 Stat. 994.

**Historical and Revision Notes**

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
7342(a) .....	22:2621 .....	Oct. 15, 1966, Pub.L. 89-673, § 2, 80 Stat. 952.
7342(b) .....	22:2622 .....	Oct. 15, 1966, Pub.L. 89-673, § 3, 80 Stat. 952.
7342(c) .....	22:2623 .....	Oct. 15, 1966, Pub.L. 89-673, § 4, 80 Stat. 952.
7342(d) .....	22:2624 .....	Oct. 15, 1966, Pub.L. 89-673, § 5, 80 Stat. 952.
7342(e) .....	22:2626 .....	Oct. 15, 1966, Pub.L. 89-673, § 7, 80 Stat. 952.

**Explanatory Notes**

The definitions of "employee" and "uniformed services" in 5 U.S.C. 2105 and 2101 are broad enough to cover the persons included in 22 U.S.C. 2621(1) with the exception of (1) individuals employed by, or occupying an office or position in, the government of a territory or possession of the United States or of the District of Columbia, (2) the President, and (3) Members of Congress, who, accord-

ingly, are covered in paragraphs (B), (D), and (E). As the Canal Zone Government is an independent agency of the United States, see section 31 of title 2, Canal Zone Code, an employee thereof is an "employee" as defined in 5 U.S.C. 2105.

In subsection (b), the words "An employee may not" are substituted for "No person shall" to conform to the definition